PRESERVED

App. F. IX-4

1939. (Courts)

File No. 59-39

Serial Nos. 3-7

Previous References

Cls 59-39-142

Later References.

Cb. 187-40 (1-2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

PRESERVED

Part B for

SUBJECT.

Procedure to be followed in Cases of reports of Unnatural deaths.

WD 0573—GPB—22,500—12-9-39

B B Chandler
24.3.41

Serial No.

From

The Dist Magistrate Mysore Dist

No. [illegible]

suggests that all the Assistant Commissioners in the State may be empowered by virtue of their appointment and held inquests under Sec 174 Cr.P.C except in the case of prisoners dying in police custody

Kind Reference is invited to the discussions in paras 8-10 and 13-14 of notes in the Cts collection 59-39 (1+2) placed below as also to this Office letter Dy 6.10.1939 to the Dist Magistrate Mysore on the subject of empowering the Asstdars and Deputy Asstdars to hold inquests.

2) The Dist. Magistrate Mysore now suggests that all the Asstdars and the Deputy Asstdars in the State may be empowered to hold inquests under Sec 174 Cr.P.C except in the case of prisoners dying in police custody.

3) If approved, the High Court may be consulted in the matter. A draft is also put up.

BKR 22.1.40

Law Secy

Govt

Govt

Govt

Serial No.

10

The Registrar High Court
No P 4970 d 25. 1. 40
Calls for the opinion of the High Court

Sus A

1) A draft of a reminder is put up for orders

Please [illegible]
[illegible] 25.3.40

Ks 25.1.40
Done 26.3.40

Issued No P 6276 d 18.3.40

Done 24/2

TYPING SECT. 18 MAR 1940 GEN. & REV. SECTT.

From
The Registrar High Court
D. Dis No 82/40-41 Dt 7.10.1940

Forwards a copy of the Minute of the Chief Justice on the subject of empowering Amildars & Deputy Amildars to receive reports and hold inquests under Sec 174 Cr. P.C.

4) Submitted with References.

10) The following points are for orders :-

(1) Whether the Dist. Magistrate Mysore Dist may be informed that it is not desirable to empower the Amildar Magistrates to hold inquests under Sec 174 (5) of Cr. P.C

(2) Whether any general instructions

Empowering Amildar Magistrates to hold inquests under Sec 174 Cr. P.C.

2328

General and Revenue Secretariat | C/5 File No. 59 of 1939. | [App. F. III-2

Serial No.

OFFICE OF THE PRIVY COUNCIL
OCT 17 1940
No 3719

Flag "E"

as suggested in para (2) of the Minute of the Chief Justice, need issue.

(1) Submit for Orders with reference to Mysore Dist Magistrate's letter dt 19.12.1939.

CPM 14/10

The D.C. question may be intimated that his selection cannot be approved. The substance of the C.J.'s note may be communicated to the D.C.

Law Secy 3 17/10/40

2781/15/40

The High Court is of the opinion that it is not desirable to entrust the Amildars and the Deputy Amildars, ex officio II class Magistrates with power to hold inquests under S. 174 Cr. Proc. Code. This may be accepted.

They further suggest that it would be advantageous for the Government to issue an order that a copy of the intimation required under Section 174 (1) should always be sent by the Police to the Special Magistrate within whose jurisdiction the death has occurred. This may be done.

I Member) Hm 2 16/10/40

DLL 17/10/40

3 17/10

Hm 2 18/10/40

3 18/10/40

NOTE—Contn. Sheet.

Empowering the Ex-Officio Magistrates to hold inquests

2 x 6

Ct File No. 59 of 1939. General and Revenue Secretariat

	Serial No.
Sent with two drafts (a G.O. and a letter)	1
CSR 29/10	
for perusal & approval	
Law Secy)	3
9/11/40	
	3/11/40
Hm 10/11/40	
	9/11
11/11	

TYPING SECTION 11 NOV. 1940 GEN. & REV. SECTT.

To
The Registrar High Court
The I.G. of Police
The Dist Magistrates of Districts
No 2513-23 dt 14.11.40.

Directs that the Reports of unnatural deaths under Sec 174 of Cr. p.c. should be sent to the Concerned Special Magistrate

7

To
The Dy. Mysore
2512 dt 14.11.40
Forwards a copy of the G.O. dt 14.11.40 and states that it is not desirable to invest Assistant Magistrates to hold inquests

6

To be preserved permanently

App. F VI G 10.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS

No. P 2772/Genl.
& 26.11.40.
To the Asstt. Genl. Pstg.

Report of Unnatural deaths
Directs that the ——— under Section 174 of the Code of
criminal procedure shall be sent to the Concerned Special Magistrates

G. O. No. P 2513-23/Cts 59-39-7 DATED 14.11.1940

May this be

i. printed ? yes

ii. treated as a standing order ? yes

iii. published in the Gazette English Part ?

iv. translated ?

v. placed at the disposal of the press ?

vi. published in the Gazette Kannada Part ?

} No

Press

B

4089/G

c5-59-39-3

No.G1-111 of 39-40
Encls Nil

OFFICE OF THE DISTRICT MAGISTRATE,
MYSORE DISTRICT.

Dated, Mysore, 18th December *193* 9
19

K. SUBBA RAO, ESQ., B. A.,
DISTRICT MAGISTRATE,
MYSORE DISTRICT, MYSORE.

To

C. SUBRAHMANYA AIYAR, ESQ., B.A., B.L.,
Secretary to Government of Mysore,
(Law Department), Bangalore.

SIR,

Subject:- Empowering the Amildar and Deputy Amildar Magistrates to hold inquests.

With reference to your letter No.P.2532 Cts 59-39-2 dated 5/10-10-39 on the above subject, I have the honour to forward herewith copy of letter No.T.C. 140/39-40 dated 30-11-39 received from the District Superintendent of Police, Mysore, and to state as under:- The District Superintendent of Police points out that the practice of sending the F.I.R's under Section 174 Cr.Pro.Code to the Amildars and Deputy Amildars who are Ex-officio Second Class Magistrates is prevailing not only in this District but in other Districts also. This practice does not appear to be of recent origin and seems to be in vogue from a very long time. It is now discovered that it has no legal basis. Neverthless, on practical grounds, it has much to commend it. Under Section 174 Cr.P.C. the report of an unnatural death is required to be sent to the nearest Magistrate duly - empowered to hold inquests. The Amildars and Deputy Amildars are ordinarily the nearest Magistrates available in the Taluks and they are the officers who can most conveniently hold inquests in all cases of importance. The other Magistrates who are available are the Special Magistrates and the Revenue Sub Division Officers who are Ex-officio First Class Magistrates. The latter are touring Officers whose Head Quarters are often at great distances from the scene of occurrence. The Special Magistrates, though stationary Officers, have plenty of regular Criminal work, and it seems undesirable to burden them with the responsibility of scrutinising the reports of unnatural deaths received from Police Officers and of proceeding to the places of occurrence in case they consider that

that inquests by them are desirable. It is true that the Amildar and Deputy Amildar Magistrates, as Heads of Taluk Police, are disqualified from holding inquests, which come within the purview of Section 176 Cr.P.C. But in other cases, I see no objection whatever to their holding inquests. For the forgoing reasons I recommend that all the Amildars and Deputy Amildars in the State may be empowered by virtue of their office to receive reports and hold inquests under Section 174 Cr. P.C. except in the case of prisoners dying in Police Custody.

I have the honour to be,

Sir,

Your most obedient servant,

Krishnappa

District Magistrate,
Mysore District.

Letter No. I.C. 140/39-40 dated 30th November 1939 from the District Superintendent of Police, Mysore, to the - District Magistrate, Mysore District.

With reference to your memo No.G1-111/39-40 dated 11-10-39 calling for report under what authority the present practice of submitting the accidental death reports to the Amildar - Magistrates by the Police is being followed, I have the honour to state that it has been the practice of sending the F.I.R's under Section 174 Cr.P.C. to the Amildar Magistrate and Deputy Amildar Magistrates not only in this District but also in other Districts. Obviously this has been in vogue on the presumption that these Magistrates are specifically empowered in this behalf.

As no authority was found in this office for this long standing procedure, instructions were sought in this office reference No.I.G. No. 140/39-40 dated 9-8-1939 with a view to adopt correct procedure in the matter strictly in conformity with Section 174 (5) Cr.P.C.

As no Government notification empowering the Amildar - Magistrates and Deputy Amildar Magistrates to hold inquests under Section 174 Cr.P.C. is forthcoming (Vide letter No.P.2532-Cts. 59-39-2 dated 6-10-39) and as they have not been so empowered by the District Magistrate, I request that they may be authorised immediately under section 37-IVth Schedule Cr.P.C. read with Section 174 (5) Cr.P.C.

" Copy "

District Magistrate,
Mysore District.

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*

WD 0186—GPB—15,000—6-9-34

No. P4930 CS 59-39-4
Secr & 25-1-40.

To

The Registrar

High Court

Sir

I am directed to forward herewith Copy of a letter No G. III/39-40 Dy 19-12-1939 together with a Copy of its enclosure received from the Dist Magistrate Mysore Dist in the matter of empowering the Amildars and Deputy Amildars in the State to receive reports and hold inquests under Sec 174 Cr.p.c and to request that Govt may be favoured with the opinion of the High Court on the above suggestion of the Dist Magistrate Mysore Dist.

I have etc

C—

Dft 22-1-40 Secy to Govt

Cb 59-39-5 2328/40 P

R. O. C. No. 82 4041
D. Dis.

Enc: one

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 5th October *19*40.

7

GOVT. LAW DEPT. 3 OCT 1940 GOVT. OF MYSORE

FROM

T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

To

H.V. Narayana Rao, Esq., B.A., LL.B.,
Secretary to Government,
Law Department, Bangalore.

SIR,

Flag "H"

With reference to your letter No.P.4970/Cts.59-39-4, dated 23rd/25th January 1940, inviting the opinion of the Judges of the High Court on the Mysore District Magistrate's suggestion for empowering Amildars and Deputy Amildars in the State to receive reports and to hold inquests under Section 174, C.Cr.P., I am directed to enclose a copy of the Chief Justice's minute on the subject and to state that the other Judges agree with it.

"R"

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
Registrar.

CHIEF JUSTICE'S MINUTE:-

I do not think it is necessary or desirable to empower Amildar-Magistrates to hold inquests under Section 174(5), Code of Criminal Procedure. It is very seldom necessary in practice for a Magistrate to hold an inquest. In the great majority of cases the investigation by the Police under Section 174(1) is sufficient. In the rare cases in which it is - desirable that some one outside the Police should hold a regular inquest I think he should be a Magistrate of more experience and less connected with the Police than an Amildar-Magistrate. Distance need hardly be considered in the rare instances in which a magisterial inquest is required. In these days of motoring no part of a Special Magistrate's jurisdiction is very far away from him.

1) I think the intimation to be given by the Police under Section 174(1) should always be given to the Special Magistrate concerned. Unfortunately the Code says "to the nearest Magistrate empowered to hold inquests", and that may often mean an Ex-officio Magistrate, who will feel little responsibility in the matter. It is hardly necessary to get the Code amended in that respect. But I think it would be advantageous for the Government to issue an order that a copy of the intimation required under Section 174(1) should always be sent by the Police to the Special Magistrate within whose jurisdiction the death has occurred.

Under

Under Section 174(2) the report of the Police investigation into the death has to be sent to the District Magistrate or the Subdivisonal Magistrate. We have now in Mysore no Subdivisional Magistrates in the Criminal Procedure Code sense. So those reports have always to be sent to the District Magistrate. I think it would be advantageous that they should be sent to the District Magistrate through the Special Magistrate, to whom the first intimation will have been sent and who will have the responsibility of deciding whether a magisterial inquest is necessary. I think that - procedure can be introduced without violation of the Code, though a modification of Criminal Circular 207 of 28-2-18 will be required. In the Madras Presidency, when I knew it, the First Class Magistrates were almost always Subdivisional Magistrates. They received the first intimations and afterward the Police "inquest" reports and had the responsibility of scrutinizing those reports and of deciding whether magisterial inquests were necessary. It is unreasonable to suggest that the Special Magistrates could not find time to scrutinize such reports. They are more likely to have time than District Magistrates. In the Madras Presidency, where Subdivisional Magistrates were also Revenue Officers and had far more work than our Special Magistrates, they often had hundreds of such "inquest" reports to - scrutinize in a year; but no one would have thought of excusing them from that important duty.

In 1932 all the Special Magistrates of that time who were Second Class Magistrates were empowered to hold inquests in accordance with their jurisdictions at that

time

time. There have been some changes in the places where there are Second Class Special Magistrates. Where revised orders empowering them in this matter are necessary, they should be obtained from the - Government.

No other changes appear to me necessary.

'Copy"

J. Cunningham
Registrar.

HBB

Ch-59-39-6

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 2512/Genl.

Dated, Bangalore, 16th November 1940.

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The District Magistrate,
Mysore District.

Sir,

With reference to your letter No.Gl-111 of 39-40 dated 19th December 1939 in the matter of empowering the Amildar and Deputy Amildar Magistrates to hold inquests, I am directed to state that Government are not in favour of the above proposal.

A copy of Government Order dated 16-11-40 on the above subject is also enclosed herein.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to Government,
Law Department.

GMG/

No. P 2512/Secl. dt 14.11.40.

CB. 59-39-6

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form).

To

The Dist. Magistrate

Mysore Dist

Sir

With reference to your letter No G1-111 of 39-40 dt 19. 12. 1939 in the matter of empowering the Amildar and Deputy Amildar Magistrates to hold inquests, I am directed to State that Govt are not in favour of the above proposal.

A Copy of Govt order dt on the above subject is also enclosed herein. for

I have etc

Hm 2 10/11/40

Secy to Govt

Law Dept

WD 03697—GPB—30,000—2-2-40

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

2 drafts

Diary No. of letter replied to.....

Section Cam/b

File No. 59-39

Serial No. 7

General and Revenue Secretariat

( )

the 193 .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 14/11/40 193 .

Read—

Signed by Mr. K.P.P.

May this be—

(i) printed ?

(ii) treated as a s

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the pres

(vi) published in the Gazette, Kannada Part ?

Letter No G1-111 Of 39-40 Dt 19.12.1939 from the District Magistrate Mysore in the matter of empowering the Amildar and Deputy Amildar Ex-Officio Second Class Magistrates to receive reports and to hold inquests under Section 174 of the Code of ~~the~~ Criminal procedure 1904

Order thereon. No.

Gds. 12 copies.

(2) Correspondence ending with letter No Dy Dis 82/40-41

Dt 9-10-1940 from the Registrar High Court Of Mysore forwarding the Opinion Of the High Court on the above subject

Order P 2513.23 Dt 14/11/40

It has been brought to the notice Of Govt that for a long time past it has been the practice with the police dept to send the First Information Reports Of unnatural deaths contemplated under Section 174 Of the Code Of Criminal procedure to the Amildars or the Deputy Amildars as the case may be

List of Enclo

Copied by

Examined by

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form).

who are Ex-Officio Second Class Magistrates. This procedure though found convenient has no legal basis.

The High Court who were consulted in the matter are of opinion that it is not expedient to empower the Amildar and Deputy Amildar Magistrates to hold inquests under Section 174 (5) of the Code of Criminal procedure and suggest that the police may be required to send the intimation required under Section 174 (1) of the Code always to the Special Magistrate within

WD 03697—GPB—30,000—2-2-46

whose jurisdiction the death occurs and that the report of the police investigation into the death contemplated under sub section (2) of section 174 of the Code of Criminal procedure should be sent to the District Magistrate through the Special Magistrate to whom the first intimation will have been sent and who will have the responsibility of deciding whether a magisterial inquest is necessary

Govt accept the suggestions of the High Court and are pleased to direct that in future the procedure suggested above should be

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form).

observed in Cases of Unnatural deaths referred to in Section 174 of the Code

The I.G. of Police is requested to issue necessary instructions in the matter.

H.M. 10/11/40

WD 03697—GPB—30,000—2-2-40

S. O.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. P. 2513-23—Cts. 59-39-7, dated 14th November 1940.

Reports of Unnatural Deaths.

Directs that the —— under Section 174 of the Code of Criminal Procedure should be sent to the concerned Special Magistrate.

READ—

Letter No. G1-111 of 39-40, dated 19th December 1939, from the District Magistrate, Mysore, in the matter of empowering the Amildar and Deputy Amildar *ex-officio* Second Class Magistrates to receive reports and to hold inquests under Section 174 of the Code of Criminal Procedure, 1904.

2. Correspondence ending with letter No. D1. Dis. 52—40-41, dated 7th October 1940, from the Registrar, High Court of Mysore, furnishing the opinion of the High Court on the above subject.

ORDER No. P. 2513-23—CTS. 59-39-7, DATED BANGALORE, THE 14TH NOVEMBER, 1940.

It has been brought to the notice of Government that for a long time past it has been the practice with the Police Department to send the First Information Reports of unnatural deaths contemplated under Section 174 of the Code of Criminal Procedure to the Amildars or the Deputy Amildars as the case may be who are *ex-officio* Second Class Magistrates. This procedure though found convenient has no legal basis.

2. The High Court who were consulted in the matter are of opinion that it is not expedient to empower the Amildar and Deputy Amildar Magistrates to hold inquests under Section 174 (5) of the Code of Criminal Procedure and suggest that the Police may be required to send the intimation required under Section 174 (1) of the Code always to the Special Magistrate within whose jurisdiction the death occurs and that the report of the Police investigation into the death contemplated under sub-section (2) of Section 174 of the Code of Criminal Procedure, should be sent to the District Magistrate through the Special Magistrate to whom the first intimation will have been sent and who will have the responsibility of deciding whether a magisterial inquest is necessary.

3. Government accept the suggestions of the High Court and are pleased to direct that in future the procedure suggested above should be observed in cases of unnatural deaths referred to in Section 174 of the Code.

4. The Inspector-General of Police is requested to issue necessary instructions in the matter.

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

To—The Registrar, High Court of Mysore.
The Inspector-General of Police in Mysore.
The District Magistrates of Districts.

Exd.—C.K.

WD 872—GPB—750—27-12-40

S. O.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. P. 2513-23—Cts. 59-39-7, dated 14th November 1940.

Reports of Unnatural Deaths.

Directs that the —— under Section 174 of the Code of Criminal Procedure should be sent to the concerned Special Magistrate.

READ—

Letter No. G1-111 of 39-40, dated 19th December 1939, from the District Magistrate, Mysore, in the matter of empowering the Amildar and Deputy Amildar *ex-officio* Second Class Magistrates to receive reports and to hold inquests under Section 174 of the Code of Criminal Procedure, 1904.

2. Correspondence ending with letter No. D1. Dis. 52—40-41, dated 7th October 1940, from the Registrar, High Court of Mysore, furnishing the opinion of the High Court on the above subject.

ORDER No. P. 2513-23—CTS. 59-39-7, DATED BANGALORE, THE 14TH NOVEMBER 1940.

It has been brought to the notice of Government that for a long time past it has been the practice with the Police Department to send the First Information Reports of unnatural deaths contemplated under Section 174 of the Code of Criminal Procedure to the Amildars or the Deputy Amildars as the case may be who are *ex-officio* Second Class Magistrates. This procedure though found convenient has no legal basis.

2. The High Court who were consulted in the matter are of opinion that it is not expedient to empower the Amildar and Deputy Amildar Magistrates to hold inquests under Section 174 (5) of the Code of Criminal Procedure and suggest that the Police may be required to send the intimation required under Section 174 (1) of the Code always to the Special Magistrate within whose jurisdiction the death occurs and that the report of the Police investigation into the death contemplated under sub-section (2) of Section 174 of the Code of Criminal Procedure, should be sent to the District Magistrate through the Special Magistrate to whom the first intimation will have been sent and who will have the responsibility of deciding whether a magisterial inquest is necessary.

3. Government accept the suggestions of the High Court and are pleased to direct that in future the procedure suggested above should be observed in cases of unnatural deaths referred to in Section 174 of the Code.

4. The Inspector-General of Police is requested to issue necessary instructions in the matter.

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

To—The Registrar, High Court of Mysore.
The Inspector-General of Police in Mysore.
The District Magistrates of Districts.

Exd.—C.K.

WD 872—GPB—750—27-12-40